

REMARKS

Claims 1-20 are pending in this application.

Claims 1-20 have been rejected.

No claims have been allowed.

Claims 3 and 11 have been amended as shown above. Because these amendments do not alter the scope of the claims and place the claims in better condition for allowance or appeal, this amendment complies with 37 C.F.R. § 1.116.

Claims 1-20 remain in this application

Reconsideration of the claims is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejects Claims 1-3, 6-11, and 14-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,995,831 by Gulliford et al. ("*Gulliford*") in view of U.S. Patent No. 4,782,517 by Bernardis et al. ("*Bernardis*"). The Office Action also rejects Claims 4, 5, 12, and 13 under 35 U.S.C. § 103(a) as being unpatentable over *Gulliford* and *Bernardis* in further view of U.S. Patent No. 6,308,080 by Burt et al. ("*Burt*"). These rejections are respectfully traversed.

During *ex parte* examinations of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP

§ 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of non-obviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not be based on an applicant's disclosure. MPEP § 2142.

Gulliford recites an adjunct processor that uses object-oriented software to provide an interface to base stations in a wireless telephone system. (*Abstract*). The adjunct processor

performs call-processing in the telephone system using a “state table,” which represents a state machine. (*Col. 6, Lines 43-45*). The state table identifies the possible states of a call and actions to be taken based on received events. (*Col. 5, Lines 1-3*). The state table may represent multiple tables associated with different types of calls (such as calls between two mobile stations, calls to a mobile station from a PSTN, and calls to a PSTN from a mobile station). (*Col. 14, Lines 50-54*). “Call-processing objects” associated with current calls in the system maintain pointers to the current states of the associated calls in the state tables. (*Col. 4, Line 63 – Col. 5, Line 1*). When an event is received by the adjunct processor, the appropriate call-processing object accesses the appropriate state table, determines the state of a call, and performs a defined response. (*Col. 13, Lines 56-67*).

Regarding Claim 1, the Office Action asserts that *Gulliford* discloses the use of multiple state machines that communicate with one another. In particular, the Office Action asserts that because “state machines at system nodes perform [*Gulliford*’s] processing, call processing ‘events’ would be associated with other state machines.” (*Office Action, Page 2, Last paragraph*).

First, the Office Action refers to state machines at “system nodes” that perform call processing. To the extent that the Office Action relies on different state machines residing in different “system nodes” to reject Claim 1, the Applicant respectfully notes that this is improper. Claim 1 recites a single “call control processor” that includes a “first state machine” capable of communicating with a “second state machine of [the] call control processor.” Because Claim 1 recites that a single call processor includes multiple state machines, the Office Action cannot

establish a *prima facie* case of obviousness against Claim 1 by identifying different state machines in different system nodes of *Gulliford*.

Second, the Office Action acknowledges that *Gulliford* fails to disclose the use of state machines having queues. (*Office Action, Page 2, Last paragraph*). The Office Action then asserts that *Bernardis* recites the use of state machines having queues and that it would be obvious to combine *Bernardis* with *Gulliford*. However, the Office Action fails to show that the proposed *Gulliford-Bernardis* combination would disclose, teach, or suggest a first state machine capable of communicating with a second state machine by “storing at least one event in a queue associated with said second state machine” as recited in Claim 1.

There is no disclosure, teaching, or suggestion in *Gulliford* that the three “state tables” communicate with one another and store events in each other. Similarly, there is no disclosure, teaching, or suggestion in *Gulliford* that the “call processing objects” communicate with one another and store events in each other. In particular, *Gulliford* contains no mention that the call processing objects store events anywhere or that the call processing objects exchange any information at all. *Gulliford* merely states that events are delivered to the call processing objects in response to messages received from “matrix switch interface software” (element 22) and “cell-site interface software” (element 26). (*Col. 4, Lines 63-66*). *Gulliford* contains absolutely no disclosure about events being exchanged between two call processing objects.

The Office Action does not rely on *Bernardis* or *Burt* disclosing, teaching, or suggesting these elements of Claim 1. For these reasons, the Office Action fails to establish a *prima facie* case of obviousness regarding Claim 1 (and its dependent claims). For similar reasons, the

Office Action fails to establish a *prima facie* case of obviousness regarding Claims 9 and 17 (and their dependent claims).

Accordingly, the Applicant respectfully requests withdrawal of the § 103(a) rejection and full allowance of Claims 1-20.

II. CONCLUSION

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of all pending claims and that this application be passed to issue.

SUMMARY

If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.


No fees are believed to be necessary for the prosecution of this application. If any fees are necessary, however, please charge the fees to Deposit Account No. 50-0208. No extension of time is believed to be necessary. If an extension of time is needed, however, the extension is requested. Please charge the fee for the extension to Deposit Account No. 50-0208.

Respectfully submitted,

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